IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL (L) NO. 1007 OF 2006
WITH
INCOME TAX APPEAL (L) NO. 1006 OF 2006

The Director of Income Tax ... Appellant

V/s.

Sadharmik Utkarsh Trust ... Respondent

Mr. Shiv Motariya for the appellant.
Mr. Prakash Jhaveri, Trustee of respondent in person present.

CORAM : H.L. GOKHALE &
V.R. KINGAONKAR,JJ.
DATED : 10th August, 2006

P.C.

. These two appeals are filed by the Director of the Income Tax (Exemption) concerning the assessment of the respondent trust for the Assessment Year 1994-95 and 1996-97. What has happened in both these matters is that the Income Tax Appellate Tribunal has accepted the submission of the respondent trust that it is a religious trust and, therefore, is entitled to the benefit under section 11 of the Act. It was contended on behalf of the Revenue that the Assessee cannot get the benefit in view of the provisions under section 13(1)(b) of the Act. Now, what is to be noted is that the restriction under section 13 (1)(b) will apply to a Charitable Institution, if its activities are restricted to a particular religious community.

Section 11 of the Act under which the benefit is sought by the respondent trust is available with respect to the income from the property held by a trust for charitable or religious purposes. The benefit is available to the trust which is wholly for religious purpose. In a situation where the trust is declared to be a charitable trust, but collects monies from different communities and it restricts benefit to a particular community, the restriction under section 13(1)(b) will come to apply. A trust which declares itself to be a religious trust and undoubtedly, therefore, collects its contribution from a particular community, the benefit under section 11 cannot be denied and the restriction under section 13 (1)(b), cannot be brought into application. In the circumstances, we do not find any error in the order passed by the Tribunal. Both the appeals are dismissed.

[H.L. GOKHALE, J.]

[V.R. KINGAONKAR, J.]